

HOUSE No. 2522

By Mr. Jones of North Reading, petition of Bradley H. Jones, Jr.,
and others relative to health insurance tax credits. Revenue.

The Commonwealth of Massachusetts

PETITION OF:

Bradley H. Jones, Jr.	Robert S. Hargraves
Mary S. Rogeness	Daniel K. Webster
George N. Peterson, Jr.	Karyn E. Polito
John A. Lepper	Paul K. Frost
Viriato Manuel deMacedo	Paul J.P. Loscocco
Elizabeth A. Poirier	Shirley Gomes
Donald F. Humason, Jr.	Michael J. Coppola
Susan W. Pope	Richard J. Ross
Susan Williams Gifford	

In the Year Two Thousand and Five.

AN ACT RELATIVE TO HEALTH INSURANCE TAX CREDITS.

1 *Whereas*, the deferred operation of this act would tend to defeat
2 its purpose, which is to reduce the ranks of the uninsured by
3 encouraging small businesses and businesses with part-time
4 employees to offer health insurance benefits to Massachusetts
5 workers, therefore it is hereby declared to be an emergency law,
6 necessary for the immediate preservation of the public conve-
7 nience.

*Be it enacted by the Senate and House of Representatives in General
Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 62 of the General Laws, as most recently
2 amended by section 22 of chapter 141 of the acts of 2003, is
3 hereby amended by inserting after section 6J the following new
4 section:—

5 Section 6K. (a) For purposes of this section, the following
6 terms shall have the following meanings unless the context clearly
7 requires otherwise:

8 “Eligible employee”, an employee who: (1) works on a full-
9 time basis with a normal work week of 30 or more hours, and
10 includes an owner, a sole proprietor or a partner of a partnership;
11 provided however, that such owner, sole proprietor or partner is
12 included as an employee under a health care plan of an eligible
13 small business but does not include an employee who works on a
14 temporary or substitute basis, and (2) is hired to work for a period
15 of not less than five months.

16 “Eligible small business”, any sole proprietorship, firm, corpo-
17 ration, partnership or association actively engaged in business in
18 the commonwealth who, on at least 50 percent of its working days
19 during the preceding year employed from one to not more than 50
20 eligible employees, the majority of whom worked in the common-
21 wealth.

22 “Eligible taxpayer”, a taxpayer engaged in business in the com-
23 monwealth that pays at least 50 percent of a health benefit plan
24 premium on behalf of a part-time employee or, only in the case of
25 an eligible small business, a part-time employee or full-time
26 employee.

27 “Engaged in business in the commonwealth”, (a) having a busi-
28 ness location in the commonwealth; (b) having employees, repre-
29 sentatives or independent contractors conducting business
30 activities on its behalf in the commonwealth; (c) maintaining,
31 renting or owning any tangible or real property in the common-
32 wealth; (d) regularly performing services in the commonwealth;
33 (e) regularly engaging in transactions with customers in the com-
34 monwealth that involve intangible property and result in income
35 flowing to the taxpayer from residents of the commonwealth;
36 (f) regularly receiving interest income from loans secured by tan-
37 gible personal or real property located in the commonwealth; or
38 (g) regularly soliciting and receiving deposits from customers in
39 the commonwealth. With respect to the activities described in
40 clauses (d) through (g), inclusive, activities shall be presumed,
41 subject to rebuttal, to be conducted on a regular basis within the
42 commonwealth, if any of such activities are conducted with 100 or
43 more residents of the commonwealth during any taxable year or if

44 the taxpayer has 10 million dollars or more of assets attributable
45 to sources within the commonwealth, or has in excess of 500,000
46 dollars in receipts attributable to sources within the common-
47 wealth.

48 “Full-time employee”, a person who is employed for considera-
49 tion for at least 30 hours per week and whose salary or wages are
50 subject to withholding as provided in chapter 62B.

51 “Health benefit plan”, any individual, general, blanket or group
52 policy of health, accident and sickness insurance issued by an
53 insurer licensed under chapter 175; a group hospital service plan
54 issued by a non-profit hospital service corporation under chapter
55 176A; a group medical service plan issued by a non-profit hospital
56 service corporation under chapter 176B; a group health mainte-
57 nance contract issued by a health maintenance organization under
58 chapter 176G; an insured group health benefit plan that includes a
59 preferred provider arrangement under chapter 176I; and any mul-
60 tiple employer welfare arrangement (MEWA) required to be
61 licensed under chapter 175. The term "health benefit plan" shall
62 not include accident only, credit, dental or disability income insur-
63 ance, coverage issued as a supplement to liability insurance, insur-
64 ance arising out of a workers' compensation or similar law,
65 automobile medical payment insurance, insurance under which
66 beneficiaries are payable with or without regard to fault and which
67 is statutorily required to be contained in a liability insurance
68 policy or equivalent self-insurance, long-term care only insurance,
69 or any group blanket or general policy which provides supple-
70 mental coverage to medicare or other governmental programs.

71 “Part-time employee”, a person who is employed for considera-
72 tion for less than 30 hours per week and whose salary or wages
73 are subject to withholding as provided in chapter 62B.

74 (b) There is hereby established a Massachusetts health insur-
75 ance tax credit for certain businesses. Such credit shall be equal
76 to 50 percent of the total premiums paid by an eligible taxpayer
77 for health benefit plans offered to a part-time employee or, only in
78 the case of an eligible small business, to a part-time employee or
79 full-time employee; provided, that no taxpayer's total liability
80 shall be reduced to less than zero.

81 (c) The commissioner shall promulgate regulations and forms
82 necessary for the administration of the provisions of this section.

1 SECTION 2. Chapter 63 of the General Laws, as most recently
2 amended by section 4 of chapter 304 of the acts of 2004, is hereby
3 amended by inserting after section 38S the following new
4 section:—

5 Section 38T. (a) For purposes of this section, the following
6 terms shall have the following meanings unless the context clearly
7 requires otherwise:

8 “Eligible employee”, an employee who: (1) works on a full-
9 time basis with a normal work week of 30 or more hours, and
10 includes an owner, a sole proprietor or a partner of a partnership;
11 provided however, that such owner, sole proprietor or partner is
12 included as an employee under a health care plan of an eligible
13 small business but does not include an employee who works on a
14 temporary or substitute basis, and (2) is hired to work for a period
15 of not less than five months.

16 “Eligible small business”, any sole proprietorship, firm, corpo-
17 ration, partnership or association actively engaged in business in
18 the commonwealth who, on at least 50 percent of its working days
19 during the preceding year employed from one to not more than 50
20 eligible employees, the majority of whom worked in the common-
21 wealth.

22 “Eligible taxpayer”, a taxpayer engaged in business in the com-
23 monwealth that pays at least 50 percent of a health benefit plan
24 premium on behalf of a part-time employee or, only in the case of
25 an eligible small business, a part-time employee or full-time
26 employee.

27 “Engaged in business in the commonwealth”, (a) having a busi-
28 ness location in the commonwealth; (b) having employees, repre-
29 sentatives or independent contractors conducting business
30 activities on its behalf in the commonwealth; (c) maintaining,
31 renting or owning any tangible or real property in the common-
32 wealth; (d) regularly performing services in the commonwealth;
33 (e) regularly engaging in transactions with customers in the com-
34 monwealth that involve intangible property and result in income
35 flowing to the taxpayer from residents of the commonwealth;
36 (f) regularly receiving interest income from loans secured by tan-
37 gible personal or real property located in the commonwealth; or
38 (g) regularly soliciting and receiving deposits from customers in
39 the commonwealth. With respect to the activities described in

40 clauses (d) through (g), inclusive, activities shall be presumed,
41 subject to rebuttal, to be conducted on a regular basis within the
42 commonwealth, if any of such activities are conducted with 100 or
43 more residents of the commonwealth during any taxable year or if
44 the taxpayer has 10 million dollars or more of assets attributable
45 to sources within the commonwealth, or has in excess of 500,000
46 dollars in receipts attributable to sources within the common-
47 wealth.

48 “Full-time employee”, a person who is employed for considera-
49 tion for at least 30 hours per week and whose salary or wages are
50 subject to withholding as provided in chapter 62B.

51 “Health benefit plan”, any individual, general, blanket or group
52 policy of health, accident and sickness insurance issued by an
53 insurer licensed under chapter 175; a group hospital service plan
54 issued by a non-profit hospital service corporation under chapter
55 176A; a group medical service plan issued by a non-profit hospital
56 service corporation under chapter 176B; a group health mainte-
57 nance contract issued by a health maintenance organization under
58 chapter 176G; an insured group health benefit plan that includes a
59 preferred provider arrangement under chapter 176I; and any mul-
60 tiple employer welfare arrangement (MEWA) required to be
61 licensed under chapter 175. The term “health benefit plan” shall
62 not include accident only, credit, dental or disability income insur-
63 ance, coverage issued as a supplement to liability insurance, insur-
64 ance arising out of a workers' compensation or similar law,
65 automobile medical payment insurance, insurance under which
66 beneficiaries are payable with or without regard to fault and which
67 is statutorily required to be contained in a liability insurance
68 policy or equivalent self-insurance, long-term care only insurance,
69 or any group blanket or general policy which provides supple-
70 mental coverage to medicare or other governmental programs.

71 “Part-time employee”, a person who is employed for considera-
72 tion for less than 30 hours per week and whose salary or wages
73 are subject to withholding as provided in chapter 62B.

74 (b) There is hereby established a Massachusetts health insur-
75 ance tax credit for certain businesses. Such credit shall be equal
76 to 50 percent of the total premiums paid by an eligible taxpayer
77 for health benefit plans offered to a part-time employee or, only in

78 the case of an eligible small business, to a part-time employee or
79 full-time employee.

80 (c) The credit allowed under this section for any corporation
81 shall not reduce the excise imposed by this chapter to less than the
82 amount due under subsection (b) of section 32 or subsection (b) of
83 section 39 of this chapter.

84 (d) The provisions of section 32C of this chapter shall not
85 apply to the credit allowed by this section.

86 (e) The commissioner shall promulgate regulations and forms
87 necessary for the administration of the provisions of this section.